

## **CUSTOMER SOFTWARE AS A SERVICE AGREEMENT**

This Software as a Service Agreement, effective as of the Effective Date (defined below), is entered into by and between Grass Valley USA, LLC located at 125 Crown Point, Grass Valley, California 95945 on behalf of itself and/or any of its Affiliates (“**Grass Valley**” or “**GV**”) and the party identified in the signature block below or identified in the Proposal (“**Customer**”). Grass Valley and Customer are each a “**Party**” and collectively the “**Parties.**”

Customer’s use and access to the SaaS Services (as defined hereafter) is governed by this Agreement (defined below). The terms and conditions on any statement of work or other business forms that Customer may use in connection with purchasing the SaaS Services, including any Customer purchase order forms, will have no effect on the rights and duties of the Parties, even if Grass Valley has not objected to such terms and conditions. By accessing or using the SaaS Services or by placing an Order, Customer acknowledges that it has read and understood this Agreement, that it has consulted legal counsel prior to acceptance of this Agreement, accepts all of the terms and conditions contained herein, and agrees that the terms and conditions shall be fully and legally binding upon the Parties, without the need for any further indication of acceptance on Customer’s part (such as by signature, click through or other means of electronic acceptance). If you are acting on behalf of Customer, Customer represents that you have full legal authority to bind Customer. Grass Valley recommends that Customer print copies of this Agreement for Customer’s own records and future reference. If Customer chooses not to agree to all of the terms and conditions of this Agreement, it shall not access or use Grass Valley’s SaaS Services. For clarity, the term “purchase,” when used in this Agreement with respect to SaaS Services, means to acquire a license to Use the SaaS Services (not to acquire title and/or any other intellectual property rights to the SaaS Services).

### **1. Definitions**

As used in this Agreement, the following terms will have the following meanings while other terms are defined parenthetically throughout this Agreement:

“**Account**” means the account created by Grass Valley for Customer when Customer purchases the Platform Access to the Platform. Each Account has unique Security Credentials.

“**Account Resource**” means any graphical interface, tool, portal or resource management tool of the Platform (including a resource manager, billing portal or app store) that enables Customer to manage or control the applicable Account, including submitting Orders, changing Orders, deploying Application Workloads to Fabrics, viewing the Status of each Application Workload, and setting certain changes to Subscriptions in accordance with this Agreement.

“**Affiliate**” means any person or entity which, directly or indirectly, controls, is controlled by, or is under common control with, such person or entity.

“**Aggregate Data**” means Customer Data that is combined with other similar data of other customers. Aggregate Data shall not include (directly or by inference) any (i) information identifying Customer or any identifiable customer or individual or (ii) Customer’s Confidential Information.

“**Agreement**” means this Software as a Service Agreement, which includes any Schedules that are attached hereto and all ancillary documents incorporated herein by reference.

“**AMPP**” means Grass Valley’s cloud-accessible system of software and hardware identified as the Agile Media Processing Platform™ or AMPP®.

“**Applicable Data Protection Laws**” means: (i) Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement

of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); (ii) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in electronic communications sector (as amended or replaced from time to time) and applicable laws implementing that directive in European Union Member States; and (iii) any other law or regulation related to data protection or data privacy that applies to either Party from time to time.

“**Applications**” means individual software applications (excluding source code) generally released and made available in the Platform, the current list of which can be found in **Schedule A**, together with any other software (excluding source code) hosted by Grass Valley or otherwise made available by Grass Valley to Customer pursuant to this Agreement. For clarity, Applications exclude beta, unreleased, non-production and/or test applications which can be removed and/or deactivated at any time at Grass Valley’s discretion. Applications can be started and stopped using the Account Resource.

“**Application Workload**” means a single copy of any Application generated by Grass Valley.

“**Associates**” shall have the meaning provided for such term in **Section 4.2**.

“**Consumption**” means Use of an Application Workload of the relevant Application on a Time Increment basis without a Subscription.

“**Consumption Fee**” means, with respect to each Application Workload used without a Subscription, the product of the following: the applicable Token Price, the applicable Token Rate, and the Consumption Time.

“**Consumption Time**” means, with respect to each Application Workload, the amount of time that elapses while such Application Workload is Used. For clarity, Consumption Time reporting is conducted on a per Application Workload basis.

“**Customer Data**” means the data provided by Users to Grass Valley through the SaaS Services, including programming and scheduling information, broadcast content (such as television shows and movies), and certain configuration data inputted by Users, but excluding Personal Data.

“**Customer Device**” means any Node, computer, tablet, mobile device, or other hardware possessed and controlled by Customer or any Users to access and Use the SaaS Services that meets the specifications specified by Grass Valley in the applicable Documentation. Use of the SaaS Services on a Customer Device requires a supported browser and may also require the installation of certain Grass Valley hardware (such as a video playback card).

“**Documentation**” means all documentation and information provided by Grass Valley to Customer or any User (as updated from time-to-time by Grass Valley) that describes technical, functional or other aspects of any Technology, including any user manuals, guides, release notes, technical manuals, specifications, use policies, license terms, help interfaces, support databases, readme files and other documentation.

“**Effective Date**” means the date the Customer places an Order.

“**Fabric**” means a collection of one or more Nodes. In the case of multiple Nodes, the Nodes are connected via a high speed network whose data can be accessed via a remote direct memory access (RDMA) protocol. The list of Fabrics in the Platform can be seen by viewing the Fabric column in the Node section of the Account Resource.

“**Fees**” means all fees and charges owed by Customer in accordance with this Agreement, including the Platform Access Fee, Consumption Fees and Subscription Fees, as such Fees are provided in or otherwise determined in accordance with **Schedule A**.

“**License**” means the license granted by Grass Valley in **Section 2.2.1** subject to the terms and conditions of this Agreement.

“**Node**” means a single physical computer or cloud compute instance.

“**Order**” means, with respect to the applicable offering (such as the Platform Access, Consumption or Subscription), the earlier of: (a) any purchase of such offering that is submitted or otherwise provided by Customer or any User to Grass Valley through a setting change in the Account Resource, a message, an email, or another electronic or written means of communication, including a purchase order; and (b) Customer’s or any User’s access to or Use of such offering.

“**Personal Data**” shall have the meanings given in Applicable Data Protection Laws, including any equivalent definitions under laws applicable outside of the European Union. Customer appoints Grass Valley as a processor to process Personal Data of Customer, and Customer agrees that the Data Processing Addendum posted at: [http://www.grassvalley.com/about/terms\\_conditions](http://www.grassvalley.com/about/terms_conditions) or available upon request applies to such processing. The purpose of such Data Processing Addendum is to set out the data protection terms that will apply to any processing of Personal Data, in order to ensure that the data protection rights and freedoms of individuals remain protected in accordance with Applicable Data Protection Laws.

“**Platform**” means AMPP, including the Applications available at AMPP and any Updates and Upgrades to the Platform that may be provided by Grass Valley in its sole discretion pursuant to this Agreement.

“**Platform Access**” means the right to use the Account and Account Resource of the SaaS Services during the Platform Access Period.

“**Platform Access Fee**” means the recurring Fee owed for the Platform Access per Account.

“**Platform Access Period**” means the twelve (12) month period following the Order date for the Platform Access.

“**Process**” means any operation or set of operations performed on Customer Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“**Proposal**” means (a) the final quotation document submitted by Grass Valley to Customer together with and/or incorporating this Agreement or (b) any documentation that: (i) includes the form attached hereto as **Schedule A** or any other price list or document that may from time to time be made available to the Customer by Grass Valley in the Platform, on its website at [www.grassvalley.com](http://www.grassvalley.com) or elsewhere. Unless otherwise indicated in writing by Grass Valley, Grass Valley Proposals are valid for thirty (30) days from date of issuance.

“**SaaS EULA**” shall have the meaning provided for such term in **Section 4.3**.

“**SaaS Services**” means the operation of the Platform by Grass Valley or its subcontractors. For clarity, SaaS Services shall not include software development services of any kind. If purchased, software development services must be purchased under a separate, written contract.

“**Security Credentials**” shall have the meaning provided for such term in **Section 3.4**.

“**Service Level Support**” means the support provided in connection with the SaaS Services as set forth in the SaaS Service Level Agreement posted at: [http://www.grassvalley.com/about/terms\\_conditions](http://www.grassvalley.com/about/terms_conditions) or available upon request. Such SaaS Service Level Agreement is hereby incorporated into this Agreement by reference. In the event the Customer purchases equipment, Customer shall, in its sole discretion, purchase after warranty support services from Grass Valley under a separate, written support agreement. Such after warranty equipment support services are excluded from this Agreement. In the event of a conflict between the terms of such SaaS Service Level Agreement and the terms of this Agreement, the terms of this Agreement shall control and prevail.

“**Status**” means the actual status of the relevant Application Workload, which may vary between the running status (e.g., on), the ready status (e.g., off), the provisioning status, and any other statuses displayed within the Account Resource.

“**Subscription**” means the right to an unlimited amount of time to Use the Ordered quantity of Application Workloads of the relevant Application on a subscription basis during the applicable Subscription Period.

“**Subscription Fee**” means the Fee owed for the applicable Subscription for each one of the Application Workloads of the relevant Application.

“**Subscription Period**” means the period of the applicable Subscription that Customer Orders in accordance with **Section 7.1.3**.

“**Technology**” means AMPP, the Platform (including the Account Resource), all Applications, all Documentation, all SaaS Services and all Accounts.

“**Term**” means the Platform Access Period and each renewal thereof in accordance with this Agreement unless and until this Agreement is earlier terminated in accordance with **Section 8**.

“**Territory**” means worldwide.

“**Time Increment**” means the time increment (such as five minutes or one hour) specified in the consumption column of **Schedule A**.

“**Token**” means the digital units of credit (not money or currency) usable to track the purchase of Consumption Time.

“**Token Price**” means the amount charged per Token as set forth in **Schedule A**.

“**Token Rate**” means, with respect to each Application, the quantity of Tokens corresponding to the Time Increment specified for such Application in **Schedule A**.

“**Updates**” means any bug fixes and minor enhancements to the Platform as made generally available by Grass Valley, excluding any items licensed, marketed, or distributed by Grass Valley as a separately-priced product and not specifically identified in this Agreement.

“**Upgrades**” means any enhancements to the Platform in the form of new or improved functionality or features as made generally available by Grass Valley under this Agreement, excluding any items licensed, marketed, or distributed by Grass Valley as a separately-priced product and not specifically identified in this Agreement.

“**Use**” and/or “**Usage**” means to perform (or the performance of) the following acts, to the extent enabled by the relevant Application Workload, in connection with using the SaaS Services in accordance with the applicable Documentation and the terms of this Agreement: (a) download and install the applicable portions of such Application Workload onto Customer Devices; (b) reproduce such portions solely to the extent necessary for such downloading and installation; (c) perform, execute, access and utilize such Workload Application; and (d) internally display the graphical interfaces of such Workload Application on display screens located within facilities possessed and controlled by Customer or Users. An Application Workload is in Use when its Status is “running,” as indicated by the Account Resource.

“**Users**” means the Customer’s employees, the Associates (if any), and the employees of any such Associates.

## **2. License; Intellectual Property.**

2.1 SaaS Services and Support. Subject to the terms of this Agreement, Grass Valley will use commercially reasonable efforts to provide Customer with (i) the SaaS Services and (ii) reasonable technical support and managed services.

2.2 License.

2.2.1 License Grant. On the Effective Date, Grass Valley grants to Customer a non-exclusive, non-assignable, non-transferable, non-sublicenseable, limited license for Users to: (a) access and Use the SaaS

Services in the Territory during the Term and for the Fees; (b) internally display the Documentation during the Term for purposes of Using the SaaS Services; provided, however, that such internal display shall be limited to internally displaying the Documentation on display screens located within facilities possessed and controlled by Customer or Users; and (c) copy the Documentation in accordance with **Section 2.4**. Customer must purchase the Platform Access to access, purchase and use the Applications that are accessible through the SaaS Services. All such access to and Use of the SaaS Services shall be for Customer's legitimate business purposes only. Customer agrees to implement and follow Grass Valley's reasonable and customary policies regarding access to, and use of, the SaaS Services. By accessing and using the SaaS Services, the Customer agrees to pay the Fees.

**2.2.2 Account Quantity; Sharing of Accounts.** Unless the Order expressly provides otherwise, Customer shall receive only a single Account for Using the SaaS Services. If Customer orders, receives or uses multiple Accounts, Customer shall owe and pay the Platform Access Fee multiplied by the quantity of all such Accounts. Customer may share any Account with any Associate, permitting such Associate to use such Account in accordance with **Section 4.2**. Customer acknowledges that: (a) the content, applications and workflows of such shared Account will be accessible and visible to all Users of Customer and such Associate; (b) all Consumption Time related to such shared Account will be invoiced to Customer; and (c) there will be no separate billing per entity. Customer shall have sole responsibility for all obligations and liabilities with respect to such shared Account.

**2.3 Fee Condition.** The License shall be conditioned and contingent upon Customer's payment of Fees in accordance with this Agreement, including the requirement to pay the Platform Access Fee to maintain an effective Platform Access Period.

**2.4 Documentation.** Customer may make, for its internal use and only in conjunction with the use of the SaaS Services, a reasonable number of printed copies of the Documentation, provided Customer includes all Grass Valley copyright legends and all other proprietary notices in the Documentation on such copies it produces. Further, Customer agrees not to remove or destroy any proprietary markings or proprietary legends placed on or contained within the SaaS Services or any Documentation.

**2.5 Ownership by Grass Valley.** As between the Parties, Grass Valley and/or its applicable Affiliate shall be the sole owner of all right, title, and interest in and to all intellectual property rights and other property rights relating to the Technology and its use. Customer agrees and acknowledges that it shall not obtain any ownership right or any intellectual property rights, whether express, by implication, estoppel, or otherwise, with respect to any Technology under this Agreement, nor will it obtain any license except for the express License. Customer acknowledges and agrees that Grass Valley or one of its Affiliates (or its suppliers or licensors, as applicable) shall be the sole owner of (and shall retain) all right, title and interest in and to the Technology (including any and all modifications, enhancements, improvements, betterments, variations, copies, portions, extracts and derivative works thereof, regardless of origin or source of contribution) and any and all intellectual property rights throughout the world relating thereto (including any and all copyrights, patent rights, neighboring rights, trade secret rights and similar rights, and any and all other rights in and to inventions (whether or not patentable), works of authorship (whether or not copyrightable), databases, designs, industrial designs, utility models, trademarks, trade names, trade dress, service marks, trade secrets, know-how and other confidential or proprietary information, patents, registrations, goodwill symbolized by marks, and other intellectual or industrial proprietary rights and the subject matter thereof, and any rights related to any of the foregoing, including rights in, to or under applications, filings, registrations or renewals.

**2.6 Reservation of Rights.** Customer shall not acquire any rights, express or implied, in or to any Technology or any improvement or derivative work thereof, other than the License as specified in this Agreement. All rights in and to the Technology that are not expressly granted herein are reserved to Grass Valley.

2.7 Infringement of Grass Valley's Rights. In the event that Customer discovers or becomes aware that a third party is infringing upon or misappropriating Grass Valley's intellectual property rights in any Technology, Customer shall promptly report such event to Grass Valley in writing, together with the details known to Customer.

2.8 Variation in Suite of Applications. Grass Valley reserves the right to remove, deactivate or otherwise decommission any Application if: (a) Grass Valley decides to end the life of such Application, in which case Grass Valley will provide Customer with at least three (3) months' advance written notice before making such Application unavailable; (b) Grass Valley determines, in its sole discretion, that such Application has a quality deficiency, in which case Grass Valley will use commercially reasonable efforts to resolve such deficiency and reactivate such Application; or (c) the operation of such Application relies on software or services provided by a third party application developer, and Grass Valley learns that such developer will cease to (or has ceased to) provide such software or services, in which case Grass Valley will provide Customer with written notice of such event as early as is feasible. Customer acknowledges that Grass Valley's offering of Applications may vary over time, and the Tokens are not usable for any Application removed, deactivated or decommissioned by Grass Valley. Grass Valley makes no guarantee or assurance that any particular Application will be offered by Grass Valley (or its licensors or suppliers) for any designated amount of time. Customer hereby waives any right for any refund, damages or remedies relating to the permanent or temporary unavailability of any Application.

2.9 Updates and Upgrades. The SaaS Services are designed to support a multi-tenant cloud based offering and shall be Updated and Upgraded in Grass Valley's discretion, and all Updates or Upgrades shall be implemented and deployed at Grass Valley's discretion. Customer may not opt out of an Update or Upgrade. Updates and Upgrades are licensed on the same terms and conditions as applicable to the SaaS Services under this Agreement.

2.10 Hardware Purchases. As soon as practical after the Effective Date of this Agreement, Grass Valley will provide Customer in writing with a list of recommended equipment (hardware and software) (either third party or Grass Valley branded) which Customer should procure in order for the SaaS Services to successfully perform. If such equipment includes Grass Valley products, Customer will purchase such products under Grass Valley's Global Terms and Conditions of Sale available at: [http://www.grassvalley.com/about/terms\\_conditions](http://www.grassvalley.com/about/terms_conditions) or a separate agreement with Grass Valley or its authorized reseller.

### **3. Limitations on License.**

3.1 Limitations on Copying and Downloading. As a condition of the License, Customer shall not, and shall not allow any Users or any other third party to, copy, download, or reproduce the SaaS Services, any Application or any component thereof except to the extent that: (a) Grass Valley has designed portions of the Applications to be downloaded and installed onto Customer Devices; and (b) the Account Resource enables Customer to download such portions as described in the applicable Documentation. In the event the Account Resource enables such downloading, (i) neither Customer nor any User shall download or install more copies of the relevant Application portion than the quantity of copies specified in the applicable Order; and (ii) Customer shall (and shall require all Users to) uninstall and delete all such portions of the Applications from such Customer Devices upon the earlier of the termination of this Agreement or the termination of the Platform Access Period.

3.2 Limitations on Third Party Use. Only Users are permitted to access or use the SaaS Services. As a condition of the License, Customer shall not directly or indirectly (by causing or permitting others to) license, sublicense, sell, resell, market, lease, sublease, loan, rent, transfer, assign, distribute, display (except for internal display as expressly permitted in the License), host, outsource, disclose, permit timesharing or service bureau or make available or accessible to any third party that is not a User, or otherwise commercially exploit any Technology or grant any right to access or use any Technology to any third party other than a User.

3.3 Limitations on Reverse Engineering and Modification. As a condition of the License, Customer shall not (directly or indirectly), and shall not allow any Users or any other third party to, (a) modify, enhance, adapt, improve or create derivative works of any Technology, (b) decompile, disassemble, decrypt, reduce to human-readable form,

port, translate, localize, hack or reverse engineer any object code of any Technology or assemble or attempt to reverse engineer, reconstruct, identify, or discover any source code of any Technology, the structure, sequence, or organization of such source code or any algorithms, methods, or models contained therein, (c) “frame” or “mirror” any Technology on any third party server or other infrastructure, (d) enter into time-sharing or data processing service arrangements involving use of any Technology with any third party, including any Affiliate or Associate of Customer, (e) remove, alter or modify any product identification, trademark, copyright, patent, or other notices or markings contained in, displayed by, or provided with any Technology, or (f) access or use any Technology in order to build any software, product, or service that is competitive or similar to the SaaS Services or any portion thereof.

3.4 Limitations on Use. As a condition of the License, Customer shall not, directly or indirectly: (a) submit Customer Data or any other material containing software viruses, worms, Trojan horses, or other harmful computer code, files, scripts, agents, or programs; (b) interfere with, disable, encumber, impede, or disrupt the integrity or performance of the SaaS Services, the data contained therein or part thereof, or the operation of any Technology; (c) attempt to gain unauthorized access to any Technology or its related systems or networks; (d) access, use, or copy any portion of the Technology through the use of bots, spiders, Web crawlers, indexing agents, or other automated devices or mechanisms, (e) create any denial of service with respect to the SaaS Services; (f) intercept the communications of any third party using the SaaS Services or falsify the origin of Customer’s or a User’s communications, or attempt to do any of the foregoing, (g) bypass or circumvent any login credentials (including usernames and passwords), login information, license keys, access keys, physical and electronic keys, authentication steps, security codes or any other security controls of Grass Valley or its Affiliates, licensors or suppliers (collectively, “**Security Credentials**”), (h) access or use any Technology after the Platform Access Period, (i) violate the applicable Documentation or any other usage restrictions displayed within any Technology or within any documentation accessible within the Technology, or (j) use the SaaS Services for any illegal or injurious purpose or otherwise in violation of **Section 4**.

3.5 Metering Devices. Grass Valley may use technology-based metering devices, passive restraints, and logging tools and software to (a) monitor and regulate usage of the SaaS Services, and (b) to aid in providing support and diagnosing defects in the SaaS Services or temporarily restrict usage until Fees have been paid in full. Customer acknowledges that such passive restraints, metering devices and logging tools are a reasonable method to ensure compliance with the License and have been factored into the License, Fees and this Agreement as a whole. Customer agrees that Customer will not circumvent, override, or otherwise bypass such metering devices, passive restraints or logging tools that monitor or regulate the Use of the SaaS Services.

3.6 Suspension of the SaaS Services. Grass Valley may, at any time, suspend the SaaS Services and/or Customer’s and Users’ access to the SaaS Services (a) without in any way limiting Grass Valley’s rights and remedies as set forth in **Section 8.1.1**, in response to Customer’s failure to pay when due any undisputed invoices issued pursuant to this Agreement, provided that Grass Valley has given Customer at least thirty (30) calendar days prior notice of Grass Valley’s intention to suspend the SaaS Services and Customer fails to pay the undisputed invoice during that thirty (30) day period; or (b) if Grass Valley reasonably believes that such a suspension is necessary to maintain the security or integrity of the Technology, to prevent misuse of the Technology by any person or entity, including Customer, or if such suspension is necessitated by Grass Valley’s third party hosting providers, provided that (i) Grass Valley notifies Customer promptly of any such suspension and (ii) Grass Valley reinstates access to or operation of the SaaS Services as soon as reasonably practicable. Grass Valley shall not be liable for any failure to provide access to or use of the SaaS Services during any suspension under this Section.

3.7 Information Security. Consistent with its then-current practices and procedures, Grass Valley will maintain and enforce commercially reasonable safety and physical security procedures with respect to its hosting of the SaaS Services. CUSTOMER ACKNOWLEDGES THAT SECURITY SAFEGUARDS, BY THEIR NATURE, ARE CAPABLE OF CIRCUMVENTION AND THAT GRASS VALLEY DOES NOT AND CANNOT GUARANTEE THAT THE SAAS SERVICES, GRASS VALLEY’S TECHNOLOGY AND THE INFORMATION CONTAINED THEREIN (INCLUDING CONFIDENTIAL INFORMATION) CANNOT BE ACCESSED BY UNAUTHORIZED

PERSONS CAPABLE OF OVERCOMING SUCH SAFEGUARDS. GRASS VALLEY SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY SUCH UNAUTHORIZED ACCESS NOR SHALL ANY SUCH UNAUTHORIZED ACCESS CONSTITUTE A BREACH BY GRASS VALLEY OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER.

3.8 Audit. During the Term, and for a period of two (2) years following the expiration or termination of this Agreement, Grass Valley shall have the right to audit Customer's use of the SaaS Services and Customer's compliance with the terms and conditions of this Agreement. In the event the audit reveals that Customer underpaid any fees or charges owed to Grass Valley, Customer shall promptly pay such underpaid fees, and if such underpayment was greater than five percent (5%) of the amount owing to Grass Valley for any period under audit, Customer shall reimburse Grass Valley for its costs of conducting the audit.

#### 4. **Customer Responsibilities.**

4.1 Compliance with Laws. Customer is responsible for all activity occurring under any Account or through the conduct of any User, and Customer shall abide by all applicable local, state, federal and foreign laws, treaties and regulations in connection with Customer's access to and use of the SaaS Services, including all Applicable Data Protection Laws and all other laws related to data privacy, international communications and the transmission of technical or personal data. Customer shall not use the SaaS Services for any unlawful purpose, and Customer will not export, directly or indirectly, the SaaS Services (or any software or data related thereto) to any country for which the United States requires any export license or other governmental approval without first obtaining such license or approval. Customer shall defend, indemnify and hold harmless Grass Valley Indemnitees (defined in **Section 10.3**) from and against any and all Losses (defined in **Section 10.3**) arising out of any claim that the SaaS Services (or any software or data related thereto) was accessed, used, exported, or otherwise shipped or transported by Customer or any Users in violation of any applicable laws, rules and regulations.

4.2 Associates. Customer may permit its Affiliates and contractors (each, an "**Associate**") to access or use any Account, together with the associated SaaS Services. Customer shall contractually bind all of its Associates, in writing, to terms and conditions consistent with the provisions set forth in **Sections 2, 3, 4** and **11** of this Agreement. If Customer permits such access or use of any Account to its customers, together with the associated SaaS Services, to any Associate, it shall identify the service to the Associate as being "Powered by AMPP". If Customer learns that any Associate is in breach of such terms and conditions or the applicable SaaS EULA, Customer shall promptly: (a) provide Grass Valley with written notice of such event; and (b) terminate such Associate's right to access and use the SaaS Services and all related Accounts. Also, in the event of such breach, the breaching Associate and its employees will be automatically removed from the definition of Users in this Agreement, and the breaching Associate will have no right to access or use any SaaS Services, Accounts or Documentation. Customer shall be fully responsible and liable for any breach of such terms and conditions by any Associate as well as all acts and omissions of all Associates as if performed by Customer.

4.3 SaaS EULA for Users. Customer represents and warrants that all Users have been duly authorized by Customer to access and use the SaaS Services and place Orders for the SaaS Services on behalf of Customer. Customer agrees to comply with the SaaS End User License Agreement ("**SaaS EULA**"), which is available at [www.grassvalley.com/termsandconditions](http://www.grassvalley.com/termsandconditions) and to cause all Users to agree to and comply with the then-current version of the SaaS EULA prior to accessing and using the SaaS Services. For clarity, the SaaS EULA is subject to change at the discretion of Grass Valley from time to time. In the event of a conflict between this Agreement and the SaaS EULA, this Agreement shall govern, control and prevail. Customer will also be responsible for Users' compliance with this Agreement.

4.4 Security of the SaaS Services. Customer shall safeguard the SaaS Services and Accounts from unauthorized access or use by any individual who is not a User, including by (a) maintaining the security and confidentiality of all Security Credentials, (b) ensuring that only Users have access to Security Credentials, (c) securing



Customer Devices to prevent unauthorized access or use of the SaaS Services, (d) preventing the installation of any viruses, malware or other malicious code on Customer Devices, (e) preventing the transmission of any viruses or malicious code to the SaaS Services through Customer Devices, and (f) maintaining industry standard antivirus software on Customer Devices. Customer shall notify Grass Valley promptly upon becoming aware of any unauthorized disclosure, access to, or use of any SaaS Services or any Security Credentials, or any other violation of this Section.

4.5 Technical Requirements. Customer shall be responsible for procuring the Customer Devices and any other hardware, software, communications facilities and Internet connection and other equipment (which may include hardware and software licensed by Grass Valley pursuant to separate agreements), together with the requisite licenses, (collectively, “**Third Party Materials**”) necessary to access and Use the SaaS Services, and satisfy any other technical requirements for the SaaS Services. Customer is responsible for ensuring that the Customer Devices and all other Third Party Materials meet or exceed the minimum technical requirements set forth in the Documentation and as otherwise provided by Grass Valley from time-to-time. Future Updates or Upgrades may have different or additional technical requirements, and Customer will be solely responsible for procuring the necessary items to satisfy these future requirements. Customer acknowledges and agrees that from time to time Grass Valley may require additional Third Party Materials, or may substitute other Third Party Materials for those originally or previously required. GRASS VALLEY MAKES NO WARRANTY OF ANY KIND UNDER THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, WITH REGARD TO ANY CUSTOMER DEVICES OR ANY OTHER THIRD PARTY MATERIALS.

## 5. Customer Data.

5.1 Ownership; Responsibility. Grass Valley does not own any Customer Data. Customer, not Grass Valley, shall have the sole responsibility for the accuracy, quality, integrity, legality, security, reliability, appropriateness and intellectual property ownership or right to use all Customer Data and all Personal Data submitted, collected, transmitted, processed or possessed by any User, including obtaining all rights necessary for Customer to submit Customer Data and Personal Data on or through the SaaS Services and otherwise use or process such Customer Data and Personal Data using the SaaS Services. Grass Valley shall not be responsible or liable for the deletion, correction, destruction, damage, loss, or failure to store any Customer Data or any such Personal Data, except to the extent Applicable Data Protection Laws require Grass Valley to delete or correct any portion of such Customer Data or Personal Data.

5.2 Licenses to Grass Valley. Customer hereby grants Grass Valley and its Affiliates and subcontractors a worldwide, non-exclusive, non-transferable (except as permitted under **Section 12.6** (Assignment)), royalty-free, limited and fully paid license to Process Customer Data solely for the purposes of Grass Valley’s and its Affiliates’ and subcontractors’ providing of the SaaS Services to Customer during the Term. Notwithstanding the foregoing, subject to applicable laws and the terms of this Agreement, Customer hereby grants Grass Valley and its Affiliates and subcontractors a worldwide, non-exclusive, “as-is,” perpetual, irrevocable, non-transferable, non-sublicensable, royalty free license to retain and use all Aggregate Data for the purpose of further developing and optimizing the SaaS Services or other Technology, including developing new and/or expanded features and functionality.

5.3 Delays and Errors. Customer acknowledges and agrees that delays and errors in processing Customer Data may result from various causes that are beyond Grass Valley’s control, including problems with the Customer Devices, problems caused by third party web service providers, including Amazon Web Services Corporation, Internet delays, congestion and service interruptions, and problems with Customer’s Internet service provider. Grass Valley is not responsible for any delays or errors in processing or delivering Customer Data that are not directly caused by Grass Valley.

5.4 Warranty Regarding Customer Data. Customer warrants that it has obtained all rights, consents and permissions necessary to (a) import, input, analyze, or otherwise process Customer Data and any Personal Data with or through the SaaS Services, and (b) grant the rights to Grass Valley set forth in **Section 5.2** (Licenses to Grass Valley). Customer further warrants that the Customer Data and any Personal Data submitted through the SaaS Services do not infringe upon or violate any common law, statutory or other right of any person or other entity, including any contractual

rights, proprietary rights, trademark, service mark, copyright, patent, or trade secret rights, or any rights of privacy or publicity.

## **6. Warranty Disclaimer.**

6.1 EXCEPT AS EXPRESSLY SET FORTH HEREIN, GRASS VALLEY DOES NOT WARRANT THAT THE SAAS SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES GRASS VALLEY MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SAAS SERVICES. GRASS VALLEY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY OF INFORMATION, AND NON-INFRINGEMENT. GRASS VALLEY DOES NOT WARRANT THAT THE SAAS SERVICES OR THE SERVICE LEVEL SUPPORT WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE SAAS SERVICES OR SERVICE LEVEL SUPPORT WILL BE ERROR-FREE, FREE OF DOWNTIME, OR THAT DEFECTS IN THE SAAS SERVICES WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY GRASS VALLEY OR ITS AUTHORIZED REPRESENTATIVES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF GRASS VALLEY'S OBLIGATIONS UNDER THIS AGREEMENT. CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES THAT USE OF THE SAAS SERVICES AND ANY OTHER SERVICES PROVIDED BY GRASS VALLEY HEREUNDER IS AT CUSTOMER'S SOLE RISK.

6.2 CUSTOMER ACKNOWLEDGES AND AGREES THAT GRASS VALLEY AND ITS VENDORS AND LICENSORS DO NOT OPERATE OR CONTROL THE INTERNET AND THAT (A) VIRUSES, WORMS, TROJAN HORSES, OR OTHER UNDESIRABLE DATA OR SOFTWARE, OR (B) UNAUTHORIZED THIRD PARTIES (E.G., HACKERS), MAY ATTEMPT TO OBTAIN ACCESS TO AND DAMAGE CUSTOMER DATA OR CUSTOMER'S WEBSITES, COMPUTERS, OR NETWORKS (INCLUDING CUSTOMER DEVICES). GRASS VALLEY SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY SUCH ACTIVITIES, NOR SHALL ANY SUCH ACTIVITIES CONSTITUTE A BREACH BY GRASS VALLEY OF ITS OBLIGATIONS OF CONFIDENTIALITY HEREUNDER.

6.3 Customer agrees that its purchases of SaaS Services are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Grass Valley regarding future functionality or features.

## **7. Ordering Procedures, Fees and Payment.**

### **7.1 Ordering Procedures.**

7.1.1 Orders for Platform Access; Renewal. Customer shall be required to purchase Platform Access to use the Consumption and Subscriptions during the applicable Platform Access Period. Customer issues an automatically renewable and non-refundable Order for Platform Access by signing this Agreement (which incorporates the **Schedule A**), by issuing a purchase order against a Proposal, by receiving access to and Security Credentials from Grass Valley to the Account, or by permitting automatic renewal after receiving written notice of any modified or additional Orders as may be issued pursuant hereto. Such Order for Platform Access shall automatically renew for an additional Platform Access Period unless either Party provides written notice of non-renewal to the other Party no less than thirty (30) calendar days prior to the expiration of the then-current Platform Access Period.

7.1.2 Orders for Consumption. Customer automatically issues a non-refundable Order for Consumption for the relevant Application Workload when any User Uses such Application Workload before Ordering any Subscription for such Application Workload. Such Order for the Consumption may be evidenced, in part, by Grass Valley's usage records.

7.1.3 Orders for Subscriptions; Renewal. To place an Order for a Subscription, Customer shall perform the procedures set forth below in this Section. With respect to the relevant Application, the Account Resource will enable Customer to select such Application for a Subscription and also specify certain settings for the selected Application, including: (a) the quantity of Application Workloads for such Subscription; (b) a recurring or non-recurring setting for such Subscription; (c) such Subscription's start date (e.g., the first day of the specified calendar month); and (d) in the case of a non-recurring Subscription, such Subscription's end date (e.g., the last day of the specified calendar month). The Subscription's specified start date will be the date of the Order. At the end of the calendar month following the start date of any recurring Subscription, such Subscription will automatically extend for an additional calendar month unless Customer cancels such Subscription using the Account Resource before the additional calendar month begins. Any non-recurring Subscription will end on the end date specified for such Subscription. Once the start date for any Subscription begins, Customer shall have no right to cancel such Subscription. Except for the then-current month of any Subscription, Customer may use the Account Resource to change certain settings applicable to the subsequent month of such Subscription. If Customer submits an Order change to cancel any Application or Application Workload having a Subscription scheduled to start the calendar month following the date of such submission, Grass Valley shall not charge Customer for the Subscription Fee corresponding to such cancelled Application or Application Workload, as the case may be.

7.1.4 Nature of Orders. Each Order shall be binding and non-refundable. Except for Customer's rights to change Orders for Subscriptions in accordance with **Section 7.1.3**, Customer shall have no right to cancel, terminate or amend any Order except as agreed in a writing signed by both Parties.

7.2 Fees, Invoicing and Payment. On the Effective Date, Customer (a) has Ordered the Platform Access with the obligation to pay the Platform Access Fee, and (b) the Platform Access Fee shall be due by Customer on the Effective Date. The Platform Access Fee shall be automatically invoiced annually thereafter upon renewal, subject to the non-renewal terms of **Section 7.1.1**. The Consumption Fees shall accrue and be payable upon Use of any Application Workload by Customer and shall be due within thirty (30) calendar days after the date of Grass Valley's invoice. In connection with each such invoice, Grass Valley shall provide Customer with Consumption statistics within such invoice, within the Account Resource or otherwise within a report provided by Grass Valley. Customer shall prepay the Subscription Fees on the start date of the applicable Subscription Period pursuant to the applicable Order by Customer, and the Subscription Fees shall be automatically invoiced by Grass Valley on such start date. All Fees paid hereunder are non-refundable. All past due amounts shall bear interest from the due date at the lesser of (i) one and one-half percent (1.5%) per month, or (ii) the maximum rate allowed by law.

7.3 Determination of Consumption Fees. Consumption Fees shall be determined based on Application Workloads that, when Used, have the Status of running (e.g., on). For each Application Workload used on a Consumption basis, the Consumption Fee shall be calculated by multiplying together the following: the Token Price, the applicable Token Rate, and the Consumption Time for such Application Workload. By way of a non-limiting example, if the Token Price is One Dollar (\$1.0), the Token Rate is two (2) Tokens per hour, and Customer uses (3) hours of Consumption Time of two (2) Application Workloads of an Application, the Consumption Fee would be Twelve Dollars (\$12).

7.4 Determination of Subscription Fees. For each Application Workload used through a Subscription, the Subscription Fee shall be calculated by multiplying the Token Price by the quantity of Tokens specified in the Subscription column of **Schedule A** for the relevant Application. By way of a non-limiting example, if Customer were to Order a Subscription for four (4) Application Workloads of a particular Application having a Token quantity of twenty (20) and the Token Price is One Dollar (\$1.0), the Subscription Fee for such Subscription would be Eighty Dollars (\$80) for the remainder of the calendar month following the Order date. If any Subscription begins after the first of any calendar month, Customer will owe the full Subscription Fee for such month. The Subscription Fee in effect on the date of the Order for the relevant Application shall remain fixed for such Application for the duration of the

Subscription Period established as of such Order date. If Customer subsequently changes such Order (including changing the quantity of the Application Workloads), the Subscription Fee related to the changed Order may differ from the original Subscription Fee based on any Fee changes effectuated by Grass Valley in accordance with **Section 7.5**.

7.5 **Fee Changes.** Grass Valley may unilaterally increase either the Platform Access Fee, any Subscription Fee, the Consumption Fees, the Token Price and/or the Token Rates not more than one time per twelve (12) month period upon ninety (90) days prior notice to Customer. Grass Valley reserves the right, at any time, to decrease fees and/or to introduce new Applications with their own fee schedule. The Subscription Fees, Consumption Fees, Token Price and Token Rate for third party applications that may be available on the Platform are priced independently. For the purposes of this Section and notwithstanding **Section 12.1**, notice of any such Fee changes shall be effectively given to the Customer when such Fee changes are made available to the Customer by Grass Valley in the Platform, on its website at [www.grassvalley.com](http://www.grassvalley.com) or elsewhere. Customer shall be bound by, and deemed to have approved such changes unless Customer provides Grass Valley with written notice of non-renewal prior to the expiry of such ninety (90) day notice period.

7.6 **Taxes.** The fees, charges, or expenses under this Agreement do not include sales, use, property, excise, value-added, service, or other taxes, or any penalties or interest related to such taxes, now or hereafter levied by any federal, state, local, or other taxing authority relating to (a) any services rendered by Grass Valley, (b) the SaaS Services or its use; (c) the License granted hereunder; or (d) this Agreement (collectively, "**Taxes**"). In addition to the payments otherwise due under this Agreement, Customer shall pay all Taxes. If Grass Valley is required to collect and pay Taxes (except Taxes based on Grass Valley's income), Grass Valley shall invoice Customer for such Taxes, and Customer shall pay such invoice in accordance with **Section 7.2** (Fees, Invoicing and Payment). Customer agrees to indemnify Grass Valley for and hold it harmless against any out of pocket costs, interest and penalties imposed upon or incurred by Grass Valley by reason of Customer's failure to perform Customer's obligations under this Agreement, including Customer's obligations to pay Taxes under applicable laws.

## **8. Term and Termination.**

### **8.1 Termination.**

8.1.1 **For Cause by Grass Valley.** Grass Valley may terminate this Agreement by prior written notice to Customer, if Customer fails to perform any material term or condition of this Agreement, and does not cure such failure within thirty (30) calendar days after Customer's receipt of written notice from Grass Valley particularly stating the default and Grass Valley's intention to terminate. Notwithstanding the foregoing, Grass Valley may terminate this Agreement immediately upon written notice if Customer fails to comply with any of the following Sections of this Agreement: **Section 2** (License; Intellectual Property), **Section 3** (Limitations on License), **Section 4** (Customer Responsibilities), **Section 7** (Ordering Procedures, Fees and Payment), or **Section 11** (Confidentiality). Termination of this Agreement by Grass Valley shall, among other things, constitute termination of all licenses and rights granted hereunder by Grass Valley.

8.1.2 **For Cause by Customer.** Customer may terminate this Agreement by prior written notice to Grass Valley, if Grass Valley fails to perform any material term or condition of this Agreement, and does not cure such failure within thirty (30) calendar days after Grass Valley's receipt of written notice from Customer particularly stating the default and Customer's intention to terminate.

8.1.3 **Termination for Convenience.** Either Party may terminate this Agreement without cause by providing the other Party with no less than thirty (30) days' advance written notice.

8.2 **Effect of Termination.** Upon the non-renewal, termination, or expiration of this Agreement for any reason (a) Customer's License to the SaaS Services will automatically and immediately terminate, and Customer shall have no further right to access or use any SaaS Services or Technology; and (b) Customer's access to the SaaS Services may be disabled by Grass Valley without notice. Termination shall not relieve Customer's obligation to pay all fees that have accrued or are otherwise owed by Customer hereunder. Promptly upon the termination or expiration of this

Agreement for any reason, Customer shall immediately (i) cease its use of the SaaS Services and other Technology, (ii) uninstall and delete any portions of the Applications downloaded onto any Customer Devices, and (iii) return to Grass Valley, within ten (10) calendar days, all Grass Valley Confidential Information (or, at Grass Valley's option, erase or destroy all Grass Valley Confidential Information), and, on Grass Valley's request, promptly deliver to Grass Valley a written statement signed by an officer of Customer having sufficient authority and knowledge, certifying that access to the SaaS Services has ceased and all Grass Valley Confidential Information has been destroyed or erased in accordance with this **Section 8.2** (Effect of Termination). Termination of this Agreement shall be in addition to and not in limitation of any other rights and remedies to which either Party is or may become entitled.

8.3 Access to Customer Data. Provided that Customer has met all payment obligations under this Agreement, upon termination or expiration of this Agreement and upon Customer's written request, Grass Valley shall make commercially reasonable efforts to provide Customer with access to the Customer Data stored within the Platform (excluding certain configuration data) for a period not to exceed sixty (60) calendar days to permit Customer to download its Customer Data. Grass Valley reserves the right to purge and delete Customer Data, if any, in its possession if Customer fails to provide Grass Valley with a written request for such Customer Data within sixty (60) calendar days following the termination or expiration of this Agreement.

## **9. Limitation of Remedies and Liability.**

9.1 Selection and Use of the SaaS Services. Customer accepts sole responsibility for (a) the selection of the SaaS Services to achieve Customer's intended results; (b) the use of the SaaS Services; (c) the results obtained from the SaaS Services and the use of those results; (d) lost or damaged Customer Data not directly caused by Grass Valley's breach of this Agreement; and (e) the adoption of procedures and safeguards (e.g., regular data backups) to prevent loss of or damage to Customer Data. Customer also accept sole responsibility for the selection and use of, and results obtained from, any other programs, programming, equipment, or services used with the SaaS Services, including the Customer Devices. Customer accepts sole responsibility for all loss, claim, liability, or damage, and related costs and expenses arising directly or indirectly out of or in any way related to Customer's own fault or negligence. This clause shall survive the Term of this Agreement.

9.2 CONSEQUENTIAL DAMAGE WAIVER. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES (INCLUDING ANY DAMAGES ASSOCIATED WITH LOSS OF USE, INTERRUPTION OF BUSINESS, LOSS OF DATA, OR LOSS OF PROFITS

9.3 LIMITATION ON DAMAGES. IN NO EVENT SHALL GRASS VALLEY BE LIABLE FOR ANY DAMAGE OR AMOUNT ARISING FROM OR RELATING TO THIS AGREEMENT IN EXCESS OF THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY.

9.4 BASIS OF THE AGREEMENT. THE LIMITATIONS PROVIDED ABOVE IN THIS **SECTION 9** SHALL APPLY TO ANY CLAIMS OR DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF GRASS VALLEY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Customer acknowledges that Grass Valley has set its prices and entered into this Agreement in reliance upon the limitations of damages, waiver of consequential damages and disclaimers of warranties and damages set forth in this Agreement, and that the same form an essential basis of the bargain between Customer and Grass Valley. Customer agrees that the limitations, exclusions, or disclaimers in this Agreement will survive and apply even if the exclusive remedies set forth in this Agreement are found to have failed of their essential purpose.

## **10. Indemnification.**

10.1 Indemnification by Grass Valley. Grass Valley agrees to defend Customer in a lawsuit or other judicial action, and pay the amount of any adverse final judgment (or settlement to which Grass Valley consents) from such lawsuit or judicial action, asserted by any third party against Customer that the SaaS Services infringe any patent, copyright, or trademark issued as of the Effective Date and enforceable in the United States (each, a **“Claim”**); provided, that Customer: (a) promptly notifies Grass Valley in writing of the Claim; (b) gives Grass Valley sole control over the defense and settlement, if any, of the Claim; (c) provides Grass Valley with full cooperation and assistance in the defense of the Claim; and (d) fully complies with Grass Valley’s direction to cease any use of the potentially infringing the SaaS Services. In addition to the obligations set forth above, if Grass Valley receives information concerning a Claim, Grass Valley may, at its expense, but without obligation to do so, undertake further actions, such as: (i) procuring for Customer such patent, copyright, or trademark right(s) or license(s) as may be necessary to address the Claim; or (ii) replacing or modifying the SaaS Services to make them non-infringing. In the event Grass Valley is, in Grass Valley’s sole discretion, unable to procure the right to continued Use of the allegedly infringing SaaS Services or replace or modify the SaaS Services to make them non-infringing as set forth above, Grass Valley may terminate this Agreement in whole or in part.

10.2 Limitations. The obligations set forth in **Section 10.1** (Indemnification by Grass Valley) shall not apply, and Grass Valley shall have no obligations with respect to, any Claim or infringement arising out of: (a) the use of the SaaS Services other than in strict accordance with this Agreement and any applicable documentation or instructions supplied by Grass Valley; (b) any alteration, modification, or revision of the SaaS Services not performed by Grass Valley; (c) the combination of the SaaS Services with materials not supplied by Grass Valley (including the Customer Devices and any Third Party Materials), where the alleged infringement would not exist without such combination; (d) information, materials or specifications provided by or on behalf of Customer, any User or any other person or entity other than Grass Valley or its Affiliates; or (e) Customer Data or Personal Data provided by any person or entity other than Grass Valley or its Affiliates (subsections (a) through (e), collectively, **“IP Infringement Exceptions”**). In the event that Grass Valley is required to defend a lawsuit or other judicial action pursuant to **Section 10.1** (Indemnification by Grass Valley) above and such lawsuit or other judicial action includes allegations with respect to non-Grass Valley products (including third party materials), then Customer shall retain, at Customer’s sole expense, separate counsel to defend against such allegations, and agree to reimburse Grass Valley for any and all attorney’s fees and costs incurred by Grass Valley with respect to defending against such allegations. Moreover, Grass Valley and its suppliers shall have no liability for any intellectual property infringement claim (including any Claim) based on Customer’s use, sale, offer for sale, information, or other disposition or promotion of the SaaS Services after it has received Grass Valley’ notice that Customer should cease use of the SaaS Services due to such claim. Customer shall indemnify and defend Grass Valley Indemnitees (defined below) from and against all Losses (defined below) incurred due to Customer’s continued use of the allegedly infringing SaaS Services after Grass Valley provides such notice. **THE PROVISIONS OF SECTION 10.1 (INDEMNIFICATION BY GRASS VALLEY) STATE GRASS VALLEY’S ENTIRE LIABILITY AND CUSTOMER’S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO ANY CLAIM OR OTHER ALLEGATION INVOLVING INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS.**

10.3 Indemnification by Customer. At Customer’s expense, Customer agrees to indemnify, defend and hold harmless Grass Valley, its Affiliates and their respective suppliers, licensors, employees, directors, officers, subcontractors, agents, and other members of their workforce (collectively, **“Grass Valley Indemnitees”**), against all liability, damages, losses, lost profits, fines, penalties, costs and expenses (including reasonable attorneys’ fees and expenses) (collectively, **“Losses”**) relating to or arising from: (a) any damage to, impairment of or loss of any software, hardware, computer systems or data of Grass Valley Indemnitees or others caused by unauthorized access to any Technology as a result of any act or omission of Customer, any Associate or any User; or (b) any third party claim relating to or in connection with (i) any Customer Data or any Personal Data provided by any person or entity other than Grass Valley or its Affiliates, including image, likeness, video or voice data collected by any User through use of the SaaS Services; (ii) any of the IP Infringement Exceptions, (iii) any claim by any Associate or other third party based

on any error or defect in any SaaS Services, (iv) any Associate's or User's breach of the SaaS EULA or use of any Technology in a manner that is prohibited by or inconsistent with the terms and conditions of this Agreement, (v) any breach of this Agreement by Customer or any Users, employees, directors, officers, subcontractors, agents and other members of Customer's workforce, or (vi) any negligence or wrongful acts or omissions by Customer and any Users. Customer's obligation to indemnify Grass Valley Indemnitees shall survive the expiration or termination of this Agreement for any reason.

## **11. Confidentiality.**

11.1 Confidential Information. "**Confidential Information**" means, with respect to a Party hereto, all information or material which the Party identifies in writing as confidential or is received under circumstances reasonably interpreted as imposing an obligation of confidentiality. Confidential Information of Grass Valley includes the terms of this Agreement, the technical, business and financial information of Grass Valley and its Affiliates, the services provided pursuant to this Agreement (including the SaaS Services and the Service Level Support), the Documentation, and the other Technology, together with all trade secrets related thereto, expressed therein or implemented thereby, including source code, algorithms, software logic, software design, software architecture, graphical layout, and data processing methods. Each Party's Confidential Information shall remain the sole and exclusive property of that Party. Neither Party shall have any obligation under **Section 11.2** with respect to any portion of the Confidential Information that: (a) is or becomes publicly known by any means other than an act or omission of a receiving Party; provided, however, that information containing a combination of multiple pieces of information shall not be deemed to be publicly known merely because one or more of such pieces is in the public domain separate from such combination; (b) was possessed by the receiving Party before receipt from the disclosing Party, as evidenced by documentation existing before the date of such receipt, (c) is provided to the receiving Party by a third party who has the legal right to do so without breaching a duty owed to the disclosing Party; (d) is independently created and developed by the receiving Party without reference to information of the other Party; or (e) is required to be disclosed by governmental regulation or court order, provided that the receiving Party shall provide the disclosing Party with sufficient advance, written notice to allow the disclosing Party to seek a protective order or to contest any such court order.

11.2 Protection of Confidential Information. Each Party recognizes the importance of the other's Confidential Information and shall maintain the Confidential Information of the other Party in strict confidence. A Party receiving Confidential Information from the other Party shall not, directly or indirectly: (a) disclose the disclosing Party's Confidential Information to any third party except to the extent required by applicable law; provided, however, that Customer may disclose SaaS Services information and Account information to Associates for purposes of, and in accordance with the terms and conditions of, this Agreement; or (b) use or implement the disclosing Party's Confidential Information for any purpose other than to the extent necessary to exercise the receiving Party's rights or perform its obligations in accordance with this Agreement. The receiving Party shall use all reasonable diligence to prevent the unauthorized use or disclosure of Confidential Information received from the disclosing Party. For the avoidance of doubt, **Section 11** will survive termination or expiration of this Agreement.

## **12. Miscellaneous.**

12.1 Notices. All notices, demands, or consents required to be given in writing under this Agreement will be in writing and will be deemed given (a) when delivered personally, (b) three (3) calendar days after deposit in the mail (certified or registered mail), (c) one (1) calendar day after being sent by overnight courier, to the receiving Party at the address set forth above or at such other address given by either Party to the other in writing, or (d) upon delivery if sent by electronic mail, to the electronic mail address most recently provided to such party or such other electronic mail address as may be designated in writing by such party. Notwithstanding the foregoing, if any notice related to this Agreement involves or relates to a legal claim, threat or allegation, breach of contract or any other legal action, threatened or actual, the Party providing such notice will deliver such notice to the other Party via personal delivery, nationally recognized courier service, or U.S. mail, by registered or certified mail, return receipt requested.

12.2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties in connection with the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the Parties, and there are no warranties, representations, or agreements between the Parties in connection with the subject matter hereof except as specifically set forth or referred to herein. In the event of any conflict between the body of this Agreement and any Schedules, the terms and provisions in the body of this Agreement shall control and prevail.

12.3 Force Majeure. Any delays in, or failure to perform, any provision of this Agreement (other than for the payment of amounts due hereunder) caused by acts, omissions, events, causes or conditions beyond either Party's reasonable control (including acts of God, third-party nonperformance, failure of or defects and errors in third party software or hardware, acts of governmental entities, civil disobedience or insurrection, lock-outs, freight embargoes, acts of civil or military authorities, terrorism, cyberattacks, fires, epidemics, pandemics, floods, wars, riots, failure of public utilities, or interruption or failure of the Internet) shall not constitute such Party's breach of this Agreement and shall not give rise to any claim for damages, and the time for performance of such provision, if any, shall be deemed to be extended for a reasonable period of time at least equal to the duration of the conditions preventing performance.

12.4 Waiver, Amendment or Modification. No modification to this Agreement, nor any waiver of any rights, shall be effective unless agreed to in writing by both Parties. This Agreement will not be modified by any course of dealing, course of performance or usage of trade. The terms of this Agreement shall not be amended or changed by the terms of any purchase order or acknowledgement even though Grass Valley may have accepted or signed such documents. No failure or delay by either Party in exercising any right, power, or remedy with respect to any of its rights hereunder shall operate as a waiver thereof.

#### 12.5 Governing Law and Jurisdiction.

12.5.1 Japan. If Customer's headquarters is located in Japan, the laws of Japan will apply to any Dispute (defined below).

12.5.2 Asia Pacific. If Customer's headquarters is located in the Asia Pacific region of the world, any Dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre for the time being in force, which rules are deemed to be incorporated by reference in this clause. The tribunal shall consist of one arbitrator. The language of such arbitration shall be English.

12.5.3 UK and Europe. If Customer's headquarters is located in the UK or Europe, the construction, validity and performance of this Agreement (and any Dispute, claim or obligation under it, whether contractual or non-contractual) shall be governed by the laws of England and Wales, and the Parties irrevocably submit to the exclusive jurisdiction of the English courts. All such proceedings shall be conducted using the English language and, in the event that all or any part of this Agreement is translated, the English language version shall be the governing version.

12.5.4 US and Other Regions. If Customer's headquarters is located in the United States or in another country other than one of those identified above in this **Section 12.5**, (a) this Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without giving effect to any conflict of laws principles, (b) the courts of the State of California (state and federal) will have sole and exclusive jurisdiction over any and all Disputes arising from, under, out of, relating to, or in connection with this Agreement, (c) venue for any Dispute will be in the State Court in Los Angeles County, California or in the United States District Court for the Central District of California; provided, however, that, if the applicable Dispute involves or relates to intellectual property infringement or misappropriation by Customer, Grass Valley may optionally select jurisdiction and venue where Customer resides or where such infringement or misappropriation occurs, (d) the



Parties hereby waive all claims of immunity from the jurisdiction and venue established pursuant to this **Section 12.5.4**, and (e) the Parties will not assert as a defense lack of personal jurisdiction or forum non conveniens.

12.5.5 Disputes. The term “**Disputes**,” as used in this Agreement, will mean any dispute, controversy, claim, difference, lawsuit, legal action, or administrative, legal, or other proceeding arising from, under, out of, relating to, or in connection with this Agreement, its interpretation, the breach, termination, applicability or validity of this Agreement, any Technology, the actual or alleged infringement or misappropriation of any intellectual property of Grass Valley, or any other dispute arising out of or relating to the relationship between the Parties or either Party’s property or assets.

12.5.6 Language. Notwithstanding anything to the contrary in this Agreement, this Agreement, which is written in English, will be interpreted in the English language. In the event any translation of this Agreement into another language is made, the English language version of this Agreement will govern in case of any conflict.

12.5.7 Exclusions. The provisions of the United Nations Convention on the International Sale of Goods and the Uniform Computer Information Transactions Act, however designated, are excluded and shall not apply to this Agreement or any transactions hereunder.

12.6 Assignment. Customer may not sublicense, assign or transfer this Agreement or the SaaS Services. Any attempt by Customer to sublicense, assign or transfer this Agreement or any of its rights, duties or obligations hereunder is void. Grass Valley may assign this Agreement, in whole or in part, to any of its present or future Affiliates or to any third party or successor in interest in connection with a contractual assignment, merger, acquisition or sale of all or substantially of Grass Valley’s assets. This Agreement will be binding on the Parties and their respective successors and permitted assigns.

12.7 Relationship of the Parties. Customer is an independent contractor under this Agreement, and nothing herein shall be construed to create a partnership, joint venture, or agency relationship between the Parties hereto. Customer shall have no authority to enter into agreements of any kind on behalf of Grass Valley and shall have no power or authority to bind or obligate Grass Valley in any manner to any other third party.

12.8 Survival. The expiration or termination of this Agreement for any reason will not release either Party from any liabilities or obligations set forth herein which (a) the Parties have expressly stated will survive such expiration or termination, (b) remain to be performed, or (c) by their nature would be intended to be applicable following such expiration or termination.

12.9 Construction. The section headings in this Agreement are for convenience of reference only, will not be deemed to a part of this Agreement, and will not be referred to in connection with the construction or interpretation of this Agreement. Unless otherwise expressly stated, each Party acknowledges and agrees that: (a) the words “herein,” “hereof,” and “hereunder” and other words of similar import refer to sections of this Agreement as a whole and not to any particular section, subsection or other subpart of this Agreement, (b) the words “include,” “including,” “such as,” and “e.g.” shall not be construed as terms of limitation and shall, in all instances, be interpreted as meaning “including, but not limited to.”

12.10 Public Announcements and Marketing. Grass Valley may use Customer’s name in press releases, product brochures and financial reports to indicate that Customer is a customer of Grass Valley’s AMPP. The content of any press release using Customer’s name will be subject to Customer’s prior approval, which will not be unreasonably withheld.

12.11 Non-disparagement. The Parties each agree not to intentionally make, or intentionally cause any other person to make, any public statement that is intended to criticize or disparage the other Party or any of its affiliates, or any of their respective officers, managers or directors in relation to performance or non-performance of this Agreement.

12.12 Counterparts. This Agreement may be executed simultaneously in two (2) or more counterparts, each of which will be deemed an original, but all of which together will constitute the same Agreement.

12.13 Electronic Signature. For purposes of this Agreement, a Party's electronic signature will be deemed its written signature, and its electronic signature will include any image that represents its representative's signature, including the representative's printed name displayed in standard or stylized format on an electronic document in PDF or other digital format. Each Party's electronic signature of this Agreement will be deemed, and will have the same force and effect as, the original, hand-written signing of this Agreement.

[Signature Page Follows.]

IN WITNESS WHEREOF, the Parties have executed this Software as a Service Agreement as of the date written below.

**GRASS VALLEY USA LLC**

Signature: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(“Customer”)

Signature: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Address: